

SUBCHAPTER J—ACCREDITATION OF VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

PART 160—DEFINITION OF TERMS

AUTHORITY: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.22, 2.80, and 371.2(d).

§ 160.1 Definitions.

For the purposes of this subchapter the following words, phrases, names and terms shall be construed, respectively, to mean:

Accredited Veterinarian.¹ A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this subchapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal, animals. All animals except humans, including but not limited to cattle, sheep, goats, other ruminants, swine, horses, asses, mules, zebras, birds, and poultry.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service, United States Department of Agriculture.

APHIS. The Animal and Plant Health Inspection Service.

Approved digital signature. Digital signatures approved by the Administrator for electronic transmission, for example, via a computer. To be approved, a digital signature must be able to verify the identity of the accredited veterinarian signing the document and indicate if the integrity of the data in the signed document was compromised.

Examine, examination. Physical study of an individual animal that enables an accredited veterinarian to determine if

any abnormality in physical condition or bodily function is suggestive of clinical signs of communicable disease.

Inspect, inspection. Visual study of the physical appearance, physical condition, and behavior of animals (singly or in groups) that enables an accredited veterinarian to determine whether any abnormality in physical condition or bodily function is evident.

Issue. The distribution, including electronic transmission, of an official animal health document that has been signed.

Official certificate, form, record, report, tag, band, or other identification. Means any certificate, form, record, report, tag, band, or other identification, prescribed by statute or by regulations issued by the Administrator, for use by an accredited veterinarian performing official functions under this subchapter.

Regular health maintenance program. An arrangement between an accredited veterinarian and a livestock producer whereby the veterinarian inspects every animal on the premises of the producer at least once every 30 days.

Sign, (Signed). For an accredited veterinarian to put his or her signature in his or her own hand, or by means of an approved digital signature, on a certificate, form, record, or report. No certificate, form, record, or report is signed if:

(1) Someone other than the accredited veterinarian has signed it on behalf of or in the name of the accredited veterinarian, regardless of the authority granted them by the accredited veterinarian; or

(2) If any mechanical device, other than an approved digital signature, has been used to affix the signature.

State. Any State, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands of the United States, and any other territory or possession of the United States.

State Animal Health Official. The State animal health official who is responsible for the livestock and poultry

¹The provisions of subchapters B, C, and D of this chapter authorize Federal and State veterinarians and accredited veterinarians to perform specified functions. Full-time Federal (including military) and State employed veterinarians are authorized to perform such functions, pursuant to delegation of authority by the Administrator or cooperative agreements without specific accreditation under the provisions of this subchapter.

disease control and eradication programs of a State.

Veterinarian-in-Charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official work of APHIS in a State or group of States.

[57 FR 54912, Nov. 23, 1992, as amended at 59 FR 40797, Aug. 10, 1994; 60 FR 39842, Aug. 4, 1995; 62 FR 25445, May 9, 1997]

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

Sec.

161.1 Statement of purpose; performance of accredited duties in different States.

161.2 Requirements and application procedures for accreditation.

161.3 Standards for accredited veterinarian duties.

161.4 Suspension or revocation of veterinary accreditation; criminal and civil penalties.

AUTHORITY: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.22, 2.80, and 371.2(d).

SOURCE: 57 FR 54912, Nov. 23, 1992, unless otherwise noted.

§ 161.1 Statement of purpose; performance of accredited duties in different States.

(a) This subchapter concerns a program administered by APHIS to accredit veterinarians and thereby authorize them to perform, on behalf of APHIS, certain activities specified in this chapter. This program is intended to ensure that an adequate number of qualified veterinarians are available in the United States to perform such activities.

(b) If an accredited veterinarian wishes to perform accredited duties in a State other than the State for which the veterinarian has completed an orientation in accordance with § 161.2(a)(4), the accredited veterinarian shall so inform the Veterinarian-in-Charge of the new State. The Veterinarian-in-Charge of the new State may require the accredited veterinarian to complete, prior to performing any accredited duties in the new State, an orientation in animal health proce-

dures and issues relevant to the new State. The Veterinarian-in-Charge shall review the content of each such orientation and shall approve its use after determining that it includes adequate information about animal health agencies, regulatory requirements, administrative procedures, and animal disease problems in the new State, to prepare an accredited veterinarian from another State to perform accredited duties in the new State. The Veterinarian-in-Charge shall also give the State Animal Health Official of the new State an opportunity to review the contents of the orientation, and invite him or her to participate in developing orientation materials and conducting the orientation.

(c) An accredited veterinarian may not perform accredited duties in a State in which the accredited veterinarian is not licensed or legally able to practice veterinary medicine.

§ 161.2 Requirements and application procedures for accreditation.

(a) *Initial accreditation.* A veterinarian may apply for accreditation by completing an application for accreditation on Form 1-36A, "Application for Veterinary Accreditation," including certification that the applicant is able to perform the tasks listed in paragraph (d) of this section, and submitting it to the Veterinarian-in-Charge in the State where he or she wishes to perform accredited duties.

(1) Completed Forms 1-36A received by a Veterinarian-in-Charge shall be reviewed by the State Animal Health Official for the State in which the veterinarian wishes to perform accredited duties. Within 14 days after receiving an application, a State Animal Health Official shall either endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for accreditation contained in this part.

(2) The Administrator is hereby authorized to accredit a veterinarian when he or she determines that:

(i) The veterinarian is a graduate with a Doctorate of Veterinary Medicine or an equivalent degree (any degree that qualifies the holder to be licensed by a State to practice veterinary medicine) from a college of veterinary medicine;

(ii) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties. APHIS will confirm licensing status of the applicant by contacting the State board of veterinary medical examiners or any similar State organization that maintains records of veterinarians licensed in a State; and,

(iii) The veterinarian has completed an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The orientation program shall include the following topics:

(A) Federal animal health laws, regulations, and rules;

(B) Interstate movement requirements for animals;

(C) Import and export requirements for animals;

(D) USDA animal disease eradication and control programs;

(E) Laboratory support in confirming disease diagnoses;

(F) Ethical/Professional responsibilities of an accredited veterinarian; and,

(G) Animal health procedures, issues, and information resources relevant to the State in which the veterinarian wishes to perform accredited duties.

(b) *Reaccreditation.* A veterinarian whose accreditation has been revoked may apply for reaccreditation when the revocation has been in effect for not

less than two years by completing an application for reaccreditation on Form 1-36A, "Application for Veterinary Accreditation", and submitting it to the Veterinarian-in-Charge of the State or area where he or she wishes to perform accredited work.

(1) Completed Forms 1-36A received by a Veterinarian-in-Charge shall be reviewed by the State Animal Health Official for the State in which the veterinarian wishes to perform accredited duties. Within 14 days after receiving an application, a State Animal Health Official shall either endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for reaccreditation contained in this part.

(2) The Administrator is hereby authorized to reaccredit a veterinarian when he or she determines that:

(i) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties;

(ii) The veterinarian has completed a reaccreditation orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the reaccreditation orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The orientation program shall include topics addressing the subject areas which led to loss of accreditation for the applicant, and subject areas which have changed since the applicant lost accreditation; and,

(iii) The professional integrity and reputation of the applicant support a conclusion that the applicant will faithfully fulfill the duties of an accredited veterinarian in the future. In making this conclusion, the Administrator shall review all available information about the applicant, including recommendations of the State Animal Health Official, and shall consider:

(A) Criminal conviction records adversely reflecting on the honesty or integrity of the applicant with regard to the performance or nonperformance of veterinary medical duties;

(B) Official records of the applicant's actions participating in Federal, State, or local veterinary programs;

(C) Judicial determinations in civil litigation adversely reflecting on the integrity of the applicant; and

(D) Any other evidence reflecting on the professional integrity and reputation of the applicant.

(c) *Reinstatement after suspension.* A veterinarian whose accreditation has been suspended for less than 6 months (other than a summary suspension that is changed to a revocation as a result of an adjudicatory proceeding) will be automatically reinstated as an accredited veterinarian upon completion of the suspension. A veterinarian whose accreditation has been suspended for 6 months or more must complete a re-accreditation orientation program in accordance with paragraph (b)(2)(ii) of this section before accreditation will be reinstated.

(d) *Tasks which applicants for accredited status must be able to perform.* Applicants for accredited status must be able to:

(1) Perform physical examinations of individual animals, and visually inspect herds or flocks, to determine whether the animals are free from any clinical signs suggestive of communicable disease;

(2) Recognize the common breeds of livestock so as to be able to record breed information on official documents;

(3) Recognize brucellosis tattoos and calfhood vaccination tags, and determine the state of origin of eartags, to properly identify animals in interstate commerce;

(4) Estimate the age of livestock using a dental formula;

(5) Apply an eartag, tattoo, backtag, and legband;

(6) Certify the disease status of a poultry flock with regard to disease caused by *Salmonella enteritidis*, chlamydiosis and exotic Newcastle disease, by evaluating records of the flock's participation in and testing by Federal and State poultry health programs;

(7) Properly complete certificates for domestic and international movement of animals;

(8) Apply and remove official seals;

(9) Perform a necropsy on livestock;

(10) Recognize clinical signs and lesions of exotic animal diseases;

(11) Plan a disease control strategy for a livestock unit;

(12) Vaccinate for brucellosis and fill out the vaccination certificate;

(13) Draw and ship blood for testing;

(14) Perform a caudal fold test for tuberculosis;

(15) Develop appropriate cleaning and disinfection plans to control communicable livestock disease spread; and

(16) Explain basic principles for control of diseases for which APHIS or APHIS-State cooperative programs exist, such as brucellosis, pseudorabies, and tuberculosis.

(Approved by the Office of Management and Budget under control number 0579-0032)

[57 FR 54912, Nov. 23, 1992, as amended at 61 FR 56891, Nov. 5, 1996]

§ 161.3 Standards for accredited veterinarian duties.

An accredited veterinarian shall perform the functions of an accredited veterinarian only in a State in which the accredited veterinarian is licensed or legally able to practice veterinary medicine. An accredited veterinarian shall perform the functions of an accredited veterinarian and carry out all responsibilities under applicable Federal programs and cooperative programs subject to direction provided by the Veterinarian-in-Charge and in accordance with any regulations and instructions issued to the accredited veterinarian by the Veterinarian-in-Charge, and shall observe the following specific standards:

(a) An accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal, other than those in regular health maintenance programs, unless he or she has personally inspected that animal within 10 days prior to issuance. Inspections under this paragraph must be conducted in a location that allows the accredited veterinarian sufficient space to observe the animal in such a manner as to detect abnormalities related to areas such as, but not limited to, locomotion, body excretion, respiration, and skin conditions. An accredited veterinarian shall examine such an animal showing abnormalities, in order to determine whether or not there is clinical evidence compatible with the presence or absence of a communicable disease.

(1) Following the first two inspections of a herd or flock as part of a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program, unless he or she has personally inspected that animal within 10 days prior to issuance.

(2) Following the third and subsequent inspections of a herd or flock in a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program, unless he or she has personally inspected that animal within 30 days prior to issuance.

(b) An accredited veterinarian shall not issue, or allow to be used, any certificate, form, record or report, until, and unless, it has been accurately and fully completed, clearly identifying the animals to which it applies, and showing the dates and results of any inspection, test, vaccination, or treatment the accredited veterinarian has conducted, except as provided in paragraph (c) of this section, and the dates of

issuance and expiration of the document. Certificates, forms, records, and reports shall be valid for 30 days following the date of inspection of the animal identified on the document. The accredited veterinarian shall distribute copies of certificates, forms, records, and reports according to instructions issued to him or her by the Veterinarian-in-Charge.

(c) An accredited veterinarian shall not issue any certificate, form, record, or report which reflects the results of any inspection, test, vaccination, or treatment performed by another accredited veterinarian, unless:

(1) The signing accredited veterinarian has exercised reasonable care, that is, a standard of care that a reasonably prudent person would use under the circumstances in the course of performing professional duties, to determine that the certificate, form, or report is accurate;

(2) The certificate, form, or report indicates that the inspection, test, vaccination, or treatment was performed by the other accredited veterinarian; identifies the other accredited veterinarian by name; and includes the date and the place where such inspection, test, or vaccination was performed; and,

(3) For a certificate, form, or report indicating results of a laboratory test, the signing accredited veterinarian shall keep a copy of the certificate, form, or report and shall attach to it either a copy of the test results issued by the laboratory, or a written record (including date and participants' names) of a conversation between the signing accredited veterinarian and the laboratory confirming the test results.

(d) An accredited veterinarian shall perform official tests, inspections, treatments, and vaccinations and shall submit specimens to designated laboratories in accordance with Federal and State regulations and instructions issued to the accredited veterinarian by the Veterinarian-in-Charge.

(e) An accredited veterinarian shall identify or be physically present to supervise the identification of reactor animals by tagging or such other method as may be prescribed in instructions issued to him or her by the Veterinarian-in-Charge or by a State Animal

Health Official through the Veterinarian-in-Charge.

(f) An accredited veterinarian shall immediately report to the Veterinarian-in-Charge and the State Animal Health Official all diagnosed or suspected cases of a communicable animal disease for which a APHIS has a control or eradication program in 9 CFR chapter I, and all diagnosed or suspected cases of any animal disease not known to exist in the United States as provided by § 71.3(b) of this chapter.

(g) While performing accredited work, an accredited veterinarian shall take such measures of sanitation as are necessary to prevent the spread of communicable diseases of animals by the accredited veterinarian.

(h) An accredited veterinarian shall keep himself or herself currently informed on Federal and State regulations that are provided to him or her by the Veterinarian-in-Charge, or by a State official through the Veterinarian-in-Charge, governing the movement of animals, and on procedures applicable to disease control and eradication programs, including emergency programs.

(i) An accredited veterinarian shall not use or dispense in any manner, any pharmaceutical, chemical, vaccine or serum, or other biological product authorized for use under any Federal regulation or cooperative disease eradication program, in contravention of applicable Federal or State statutes, regulations, and policies.

(j) An accredited veterinarian shall be responsible for the security and proper use of all official certificates, forms, records, and reports; tags, bands, or other identification devices; and approved digital signature capabilities used in his or her work as an accredited veterinarian and shall take reasonable care to prevent the misuse thereof. An accredited veterinarian shall immediately report to the Veterinarian-in-Charge the loss, theft, or deliberate or accidental misuse of any such certificate, form, record, or report; tag, band, or other identification device; or approved digital signature capability.

(k) An accredited veterinarian may issue an origin health certificate for export use pursuant to part 91 of this

chapter without including test results from a laboratory, if the Veterinarian-in-Charge has determined that such action is necessary to save time in order to meet an exportation schedule and agrees to add the test results to the certificate at a later time. In such cases, the accredited veterinarian shall state on a removable attachment to the certificate that such test results are to be added by the Veterinarian-in-Charge.

[57 FR 54912, Nov. 23, 1992; 58 FR 8820, Feb. 17, 1993; 60 FR 39842, Aug. 4, 1995; 60 FR 55443, Nov. 1, 1995; 62 FR 25445, May 9, 1997]

§ 161.4 Suspension or revocation of veterinary accreditation; criminal and civil penalties.

(a) The Administrator is authorized to suspend for a given period of time, or to revoke, the accreditation of a veterinarian when he or she determines that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarian Duties" as set forth in § 161.3 of this part, or, in lieu thereof, to issue a written notice of warning to the accredited veterinarian when the Administrator determines a notice of warning will be adequate to attain compliance with the Standards.

(b) Accreditation shall be automatically terminated when an accredited veterinarian is not licensed or legally able to practice veterinary medicine in at least one State.

(c) Accreditation shall be automatically revoked when an accredited veterinarian is convicted of a crime in either State or Federal court, if such conviction is based on the performance or nonperformance of any act required of the veterinarian in his or her capacity as an accredited veterinarian.

(d) Any accredited veterinarian who knowingly issues or signs a false, incorrect, or mislabeled animal health or inspection certificate, blood sample, official brucellosis vaccination certificate, or official tuberculin test certificate in accordance with this chapter, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 21 U.S.C. 117, 122, 127, and 134e, or other applicable Federal statutes. Such action may be in addition to, or in lieu of, suspension

or revocation of accredited veterinarian status in accordance with this section.

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS' ACCREDITATION

Subpart A—General

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AUTHORITY: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.22, 2.80, and 371.2(d).

SOURCE: 57 FR 54915, Nov. 23, 1992, unless otherwise noted.

Subpart A—General

§ 162.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings for the revocation or suspension of accreditation of veterinarians (9 CFR parts 160 and 161). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 162.10 Summary suspension of accreditation of veterinarians.

In any situation where the Administrator has reason to believe that any veterinarian accredited under the provisions of 9 CFR parts 160 and 161 of this subchapter has not complied with the “Standards for Accredited Veterinarian Duties” set forth in § 161.3 of this subchapter, and deems such action necessary in order to prevent the introduction into the United States or the

spread from one State to another of a contagious, infectious, or communicable disease of animals, or to insure that animals intended or offered for export to foreign countries are free from disease, the Administrator may suspend the accreditation of such veterinarian pending final determination in the proceeding, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such veterinarian pursuant to § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)) as promptly as circumstances permit. Such suspension shall have no relevance with respect to the final determination in the proceeding.

§ 162.11 Notification.

The Veterinarian-in-Charge shall notify an accredited veterinarian when there is reason to believe that the accredited veterinarian has not complied with the “Standards for Accredited Veterinarian Duties” as contained in § 161.3 of this subchapter. The notification shall be in writing, with a copy to the State Animal Health Official, and shall include a statement of the basis for the belief that the accredited veterinarian has failed to comply with the Standards and shall notify the accredited veterinarian if the Veterinarian-in-Charge has arranged to hold an informal conference to discuss the matter.

§ 162.12 Informal conference.

(a) The Veterinarian-in-Charge, in consultation with the State Animal Health Official and the accredited veterinarian, shall designate the time and place for the holding of an informal conference to review the matter, unless the Veterinarian-in-Charge determines that an informal conference is inappropriate. An informal conference is inappropriate only if the Veterinarian-in-Charge decides to dismiss the case based on available facts, or if civil or criminal charges based on the actions or inactions believed to be in violation of the “Standards for Accredited Veterinarian Duties” contained in § 161.3 of this subchapter are pending against the accredited veterinarian. An informal

conference shall include the Veterinarian-in-Charge or his or her representative, the accredited veterinarian, and any other persons the Veterinarian-in-Charge requests to attend due to their involvement in or knowledge of the possible violation. The State Animal Health Official will be invited to attend each informal conference held regarding activities in his or her State.

(b) Prior to, during, or at the conclusion of the informal conference, the Veterinarian-in-Charge may issue a written warning to the accredited veterinarian without further procedure after determining that a warning with appropriate instructions will be adequate to attain compliance with the Standards.

(c) If prior to, during, or at the conclusion of, the informal conference, the accredited veterinarian consents, in writing, to the issuance of an order revoking or suspending his or her accreditation for a specified period of time, in lieu of further procedure, the Veterinarian-in-Charge may issue such a consent order without further procedure.

(d) If prior to, during, or after the informal conference, but prior to the

issuance of a formal complaint, the accredited veterinarian is found not to have violated the regulations, the Veterinarian-in-Charge will issue a letter dismissing the case, and provide a copy of the letter to the accredited veterinarian and to the State Animal Health Official. Prior to, during, or after the informal conference, the Veterinarian-in-Charge may issue a letter identifying actions of the accredited veterinarian that were minor violations of the Standards, instructing the accredited veterinarian in proper procedures, and admonishing the accredited veterinarian to use greater care in performing these procedures in the future.

[57 FR 54915, Nov. 23, 1992; 57 FR 60086, Dec. 18, 1992]

§ 162.13 Formal complaint.

If a consent order has not been issued, or if, after an informal conference, the Veterinarian-in-Charge has not issued a letter of dismissal or letter of warning to the accredited veterinarian, a formal complaint may be issued by the Administrator in accordance with § 1.135 of the Uniform Rules of Practice (7 CFR 1.135).